IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6924 OF 2003.

Ulhasnagar Municipal Council
and another. ... Petitioners.

V/s.

Shri Anant Khandu More
and others. ... Respondents.

R.S.Desai for the petitioners.

T.J.Pandian for respondent Nos.1-6, 8-12 & 14-18.

CORAM: V.C.DAGA, J.

DATED: 25th April 2006.

P.C.:

. Heard learned counsel for the petitioners.

2. This petition is directed against the order dated 12th August, 2003 passed in Revision (ULP) No.15 of 1997 by the Industrial Court, Thane confirming the order passed by the Labour Court in Complaint (ULP) No.185/1992 setting aside termination of the complainants and directing reinstatement with continuity of service and back wages for the intervening period from 1st December, 1992 to 14th August, 1993.

3. The learned counsel appearing for the petitioners contends that the Court below should

not have granted back wages for the period 1st December, 1992 to 14th August, 1993. It is no doubt true that the burden is upon the workmen to establish that they were unemployed during the period in question. In order to find out whether they were employed or not, the evidence in that behalf needs to be looked into. The very fact that the Labour Court granted reinstatement with full back wages for the period 1st December, 1992 to 14th August, 1993 and that the said finding has been confirmed by the Industrial Court is sufficient to raise presumption that relevant material or evidence must be on record. In order to rebut this presumption or in order to challenge this finding, it was expected on the part of the petitioners to produce evidence of both parties including examinations and cross-examinations of the witnesses to demonstrate that the respondents-workmen did not lead any evidence to show their unemployment during this period. The petitioners have not filed any such material except bear statement in the petition. There is no evidence available on record to suggest that the respondent- workmen did not lead any evidence regarding their unemployment. The very fact that the petitioners did not produce any evidence of the workmen and kept these documents away from the Court is sufficient to draw adverse inference

against the petitioners that the said material was not favourable to the petitioners

4. It was expected on the part of the petitioners to produce all relevant documents along with the petition itself. On being asked the petitioners cannot be heard of seeking time to produce those documents and seeking further adjournment. This petition itself is pending in this Court since 2004 and adjourned from time to time. In the circumstances, the Court is compelled to refuse adjournment prayed by the petitioners. On the material available on record, submission advanced by the petitioners cannot be accepted.

5. The petition is, thus, dismissed in limine with no order as to costs.

(V.C.DAGA, J.)